



**Amref Health Africa v Obadha (Civil Appeal 158 of 2023)  
[2023] KEHC 26115 (KLR) (24 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26115 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
CIVIL APPEAL 158 OF 2023  
RE ABURILI, J  
NOVEMBER 24, 2023**

**BETWEEN**

**AMREF HEALTH AFRICA ..... APPELLANT**

**AND**

**EVANS ONYANGO OBADHA ..... RESPONDENT**

*(Arising from the Judgment and decree of Hon. G. C. Serem RM  
in Kisumu SCC No. 95 of 2023 rendered on 26th July 2023)*

**RULING**

1. This appeal was filed on 2<sup>nd</sup> October 2023. The impugned judgment of the Small Claims Court Adjudicator was rendered on 26<sup>th</sup> July 2023.
2. Section 38 (1) of the *Small Claims Court Act* provides that:
  1. A person aggrieved by the decision or order of the court may appeal against the decision or order to the High Court on matters of law.
  2. An appeal from any decision or order referred to in Sub-section (1) shall be final.
3. It is true that the Act and Rules made thereunder do not stipulate the timeframe within which an appeal ought to be filed to the High Court.
4. However, in such circumstances, nothing bars the party from invoking the provisions of Section 79 G of the *Civil Procedure Act* on the time for filing appeals from subordinate courts which is 30 days or even seeking leave of this court to enlarge time for filing of the appeal out of time, with reasons for the delay.
5. The Small Claims Court being a subordinate court to the High Court, and considering the stringent timelines given under *the Act*, this court finds that the legislature did not intend to give parties blank



cheques and open ended time to decide when to file an appeal from decisions of the Small Claims Court.

6. If anything, it is expected that the aggrieved party files an appeal within reasonable time. Three months is not reasonable time for filing an appeal from the Small Claims Court.
7. This court is not satisfied that it has jurisdiction to hear and determine an appeal filed outside the 30 days period. See *[Greyhound Company Limited v Globetrotter Limited](#)* [2022] eKLR.
8. Accordingly, I summarily reject this appeal and strike it out for being filed out of time. I make no orders as to costs.
9. The appellant's counsel to be notified.
10. This file is closed. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 24<sup>TH</sup> DAY OF NOVEMBER, 2023**

**R. E. ABURILI**

**JUDGE**

